

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JANET HILL,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION FILE
v.	)	NO. 1:21-cv-03750-WMR
	)	
COMMUNITY LOAN SERVICING f/k/a	)	
BAYVIEW LOAN SERVICING, and	)	
SHELLPOINT MORTGAGE	)	
SERVICING,	)	
	)	
Defendants.	)	
	)	

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS’  
MOTION TO STAY PRETRIAL DEADLINES AND DISCOVERY**

COMES NOW, Defendant Community Loan Servicing f/k/a Bayview Loan Servicing (“Bayview”) and Defendant NewRez LLC d/b/a Shellpoint Mortgage Servicing (“Shellpoint”) (collectively “Defendants”) by and through the undersigned counsel, and respectfully moves the Court to stay certain pretrial deadlines and discovery pending a ruling on Defendants’ Motion to Dismiss (“Motion to Dismiss”).

**I. PROCEDURAL HISTORY**

On August 2, 2021, Plaintiff filed her “VERIFIED PETITION TO REMOVE CLOUD FROM TITLE” (“Complaint”) in the Superior Court of Fulton County.

Bayview then removed the case to this Court. Defendants then filed a Motion to Dismiss with this Court. Because the parties have not consented to begin discovery prior to the thirty (30) day period following the appearance of a defendant by answer to the complaint, the discovery period has not yet commenced. *See* LR 26.2(A), N.D.Ga. (discovery period commences “thirty (30) days after the appearance of a defendant by *answer to the complaint*” (*emphasis added*)).

## **II. ARGUMENT AND CITATION OF AUTHORITY**

The Court has “broad discretion to stay discovery until the district court rules on a pending dispositive motion.” *Panola Land Buyers Ass’n v. Shuman*, 762 F.2d 1550, 1560 (11th Cir. 1985); *see also* LR 26.2B, N.D.Ga. (“The court may, in its discretion, shorten or lengthen the time for discovery.”); *Patterson v. U.S. Postal Serv.*, 901 F.2d 927, 929 (11th Cir. 1990) (holding that district court did not abuse its discretion in staying discovery because the court had “sufficient information before it upon which to rule.”).

Defendants have moved to dismiss all of the claims set forth in the Complaint. Because the Court’s ruling on the Motion to Dismiss could potentially dispose of this action in its entirety, Defendants would submit that compliance with certain of the early discovery obligations set forth in the Federal Rules and Local Rules would be premature at this juncture. The time and resources that the parties would expend

in drafting initial disclosures, drafting a joint preliminary planning report and discovery plan, conducting a Rule 26(f) conference, and conducting discovery will have been spent unnecessarily if the Court were to find that Plaintiff's Complaint should be dismissed. Moreover, if the Court should decide that Plaintiff has stated a viable claim, Plaintiff will not be prejudiced by a short delay in the start of the discovery period.

Therefore, Defendants request that the Court temporarily stay the deadlines for: (1) the Rule 26(f) Early Planning Conference, *see* LR 16.1, N.D.Ga.; (2) the Joint Preliminary Report and Discovery Plan, *see* LR 16.2, N.D.Ga.; (3) Initial Disclosures, *see* LR 26.1, N.D.Ga.; and (4) the commencement of the discovery period. Defendants would propose that the parties comply with these deadlines within 30 days of the Court's final ruling on Defendants' Motion to Dismiss.

A proposed order granting the relief sought herein is attached.

This 17<sup>th</sup> day of September, 2021.

/s/ Allison Rhadans

Allison Rhadans

Georgia Bar No. 940557

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*Shellpoint Mortgage Servicing*

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**CERTIFICATE OF SERVICE, FONT AND MARGINS**

I hereby certify that on the undersigned date, I electronically filed the foregoing ***MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO STAY PRETRIAL DEADLINES AND DISCOVERY*** with the Clerk of the Court using the CM/ECF System and served a true and correct copy of same on the following individual(s) via First-Class Mail, postage prepaid, addressed to:

Ricardo Mosby, Esq.  
The Mosby Law Firm PC  
260 Peachtree Street Suite 1403  
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*Counsel for Plaintiff*

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*Counsel for Defendant NewRez LLC d/b/a Shellpoint Mortgage Servicing*

I further certify that I prepared this document in 14 point Times New Roman font and complied with the margin and type requirements of this Court.

This 17<sup>th</sup> day of September, 2021.

/s/ Allison Rhadans  
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